

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 411

HOUSE BILL NO. 327

By Representatives Sherry Jones, Hardaway

Substituted for: Senate Bill No. 859

By Senators Black, Burks, Marrero

AN ACT to amend Tennessee Code Annotated, Title 16; Title 17; Title 18; Title 34; Title 36; Title 37; Title 39 and Title 40, relative to family courts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-102(22), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(22) "Foster care", for purposes of this part, shall have the meaning given to that term in § 37-1-102, provided that no plan or permanency plan, as defined in § 37-2-402, shall be required in the case of foster care provided by or in any agency, institution or home in connection with an adoption of a child, so long as a petition for the adoption of that child by an individual or individuals to whom care of that child has been given is filed in a court of competent jurisdiction within six (6) months of the time that child first comes into the care of such agency, institution or home;

SECTION 2. Tennessee Code Annotated, Section 36-1-102(23), is amended by deleting the subdivision in its entirety and substituting instead the following:

(23) "Foster parent", for purposes of this part, shall have the meaning given to that term in § 37-1-102;

SECTION 3. Tennessee Code Annotated, Section 36-1-102(32), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(32) "Licensed clinical social worker", for purposes of this part, means an individual who holds a license as an independent practitioner from the board of social worker certification and licensure pursuant to title 63 chapter 23, and, in addition, is licensed by the department to provide adoption placement services;

SECTION 4. Tennessee Code Annotated, Section 36-1-108(b)(1), is amended by deleting from the subdivision the language "a foster home or" and by adding the word "an" before the words "adoptive home".

SECTION 5. Tennessee Code Annotated, Section 37-1-102(b)(12)(H), is amended by deleting the subdivision in its entirety and substituting instead the following:

(H) Who has been in the care and control of one (1) or more agency or person not related to such child by blood or marriage for a continuous period of six (6) months or longer in the absence of a power of attorney or court order, and such person or agency has not initiated judicial proceedings seeking either legal custody or adoption of the child; or

SECTION 6. Tennessee Code Annotated, Section 37-1-102(b), is amended by adding a new subdivision 37-1-102(b)(15) as follows:

(15) "Foster care" means the temporary placement of a child in the custody of the department of children's services or any agency or institution, whether public or private, for care outside the home of a parent or relative, by blood or marriage, of the child, whether such placement is by court order, voluntary placement agreement, surrender of parental rights or otherwise;

SECTION 7. Tennessee Code Annotated, Section 37-1-102(b), is further amended by adding a new subdivision 37-1-102(b)(16) as follows:

(16) "Foster parent" means, for purposes other than § 37-2-414, a person who has been trained and approved by the department or licensed child-placing agency to provide full-time temporary out-of-home care at a private residence for a child or children who has been placed in foster care, or in the case of a child or children placed for adoption, a person who has provided care for such child or children for a period of six (6) months or longer in the absence of a power of attorney or court order;

SECTION 8. Tennessee Code Annotated, Section 37-1-102(b), is further amended by renumbering the present subdivisions beginning with subdivision (b)(15) to take into account the additions of the new subdivisions as set forth in Sections 6 and 7 of this act.

SECTION 9. Tennessee Code Annotated, Section 37-2-402, is amended by deleting subdivision (5) and redesignating existing subdivisions accordingly.

SECTION 10. Tennessee Code Annotated, Section 37-1-102(b)(12), is amended by adding the following new subdivision (J):

(J)

(i) Who has willfully been left in the sole financial care and sole physical care of a related caregiver for not less than eighteen (18) consecutive months by the child's parent, parents or legal custodian to the related caregiver, and the child will suffer substantial harm if removed from the continuous care of such relative;

(ii) For the purposes of this subdivision (b)(12)(J), a related caregiver shall include the child's biological, step, or legal grandparent, great grandparent, sibling, aunt, uncle, or any other person who is legally or biologically related to the child;

(iii) For the purposes of this subdivision (b)(12)(J), a child willfully left with a related caregiver as defined in subdivision (b)(12)(J)(ii) because of the parent's military service shall not be subject to action pursuant to § 37-1-183;

SECTION 11. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following new section:

§ 37-1-183.

If the court finds that a child is dependent and neglected as defined in § 37-1-102(b)(12)(J), the court shall order the child to remain in the related caregiver's custody if such an arrangement is in the best interest of the child. Any future order for modification or termination of the related caregiver's custody brought by the child's parent shall be based on a finding, by a preponderance of the evidence, that there has been a material change in circumstances. When making such a determination, the court may consider whether the child's parent is currently able and willing to care for the child, or that the related caregiver is unable to continue to care for the child.

SECTION 12. This act shall take effect July 1, 2009, the public welfare requiring it, and shall apply to conduct covered by the provisions of this act that occurs on or after the effective date of this act. The eighteen (18) month time period set out in Section 10 of this act shall not commence until July 1, 2009, the public welfare requiring it.

PASSED: June 3, 2009



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 11th day of June 2009


PHIL BREDESEN, GOVERNOR